

Assembly Bill No. 2220

Passed the Assembly August 27, 2014

Chief Clerk of the Assembly

Passed the Senate August 25, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 7583.32 and 7583.40 of, to add Section 7587.16 to, and to repeal and add Section 7583.39 of, the Business and Professions Code, and to amend Section 28235 of, and to add Chapter 4.1 (commencing with Section 28010) to Division 6 of Title 4 of Part 6 of, the Penal Code, relating to private security services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2220, Daly. Private security services: private patrol operators.

The Private Security Services Act provides for the licensure and regulation of private patrol operators by the Bureau of Security and Investigative Services in the Department of Consumer Affairs. The act requires a private patrol operator employing a security guard who carries a firearm to maintain an insurance policy that provides minimum limits of insurance of \$500,000 for any one loss due to bodily injury or death and \$500,000 for any one loss due to injury or destruction of property.

This bill would instead require the bureau to require a private patrol operator or applicant for licensure, as a condition precedent to licensure or continued licensure, to file or have on file with the bureau an insurance policy that provides minimum limits of insurance of \$1,000,000 for any one loss due to bodily injury, including death, or property damage, or both, as specified. The bill would provide that if a licensee fails to maintain sufficient insurance or provide proof of insurance as required, the license shall be automatically suspended.

The act requires a private patrol operator licensee, qualified manager of a licensee, or security guard who, in the course of his or her employment, may be required to carry a firearm, to satisfy specified requirements prior to carrying a firearm, including the completion of a course of training in the carrying and use of firearms. Existing law exempts from this requirement a duly appointed peace officer, as defined, who has successfully completed a course of study in the use of firearms. The act prohibits the bureau from renewing an expired firearms qualification card

unless, among other requirements, the applicant has requalified on the range and successfully passed a written examination, as specified.

This bill would exempt a duly appointed peace officer, as defined, who is authorized to carry a firearm in the course of his or her duties and has successfully completed requalification training from the requirements of requalifying on the range and passing the written examination.

Existing law generally requires a transfer of a firearm to be conducted by a firearms dealer, and requires specified information about the purchaser and the firearm in the transaction to be submitted to the Department of Justice. The department has created a form for this purpose known as the Dealers' Record of Sale form or DROS form. Existing law authorizes the department to charge a fee for the costs associated with the submission of the DROS form. Existing law does not authorize a business entity to own or register a firearm.

This bill would establish procedures, operative July 1, 2016, allowing a Private Patrol Operator (PPO) business entity to be the registered owner of a firearm. The bill would state findings and declarations of the Legislature, and express the intent of the Legislature in connection with these procedures. The bill would direct the Department of Justice to modify the DROS form and create a certificate of assignment (COA), and to charge a reasonable fee for the filing and processing of the COA for these purposes and for enforcement of these provisions. Among other things, the bill would allow a security guard to be assigned a firearm by the PPO through a COA, as specified, and for a firearm custodian to be designated by the PPO. The bill would require submission to the Department of Justice of information pertaining to the ownership of a firearm by a PPO, the assignment of a firearm by a PPO, and the identity of a PPO firearms custodian, as specified. The bill would require PPO-owned firearms acquired prior to July 1, 2016, to be registered, as specified. The bill would provide that an assignment of a firearm by a PPO to a security guard employee for purposes of employment duties would not constitute a loan, sale, or transfer of a firearm. The bill would authorize the Director of the Department of Consumer Affairs, through his or her designee, to assess an administrative fine of up to \$1,000 against a PPO or a security guard for each willful violation of these and

other provisions of the bill relating to firearms. The bill would require a security guard, upon request by the PPO, or upon separation of employment or revocation of the security guard's firearm qualification card, and within 48 hours, to return the assigned firearm to the PPO. The bill would provide that the failure of a security guard to return an assigned firearm as required would be a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 7583.32 of the Business and Professions Code is amended to read:

7583.32. (a) A firearms qualification card expires two years from the date of issuance, if not renewed. A person who wishes to renew a firearms qualification card shall file an application for renewal at least 60 days prior to the card's expiration. A person whose card has expired shall not carry a firearm until he or she has been issued a renewal card by the bureau.

(b) The bureau shall not renew a firearms qualification card unless all of the following conditions are satisfied:

(1) The cardholder has filed with the bureau a completed application for renewal of a firearms qualification card, on a form prescribed by the director, dated and signed by the applicant under penalty of perjury certifying that the information on the application is true and correct.

(2) The applicant has requalified on the range and has successfully passed a written examination based on course content as specified in the firearms training manual approved by the department and taught at a training facility approved by the bureau.

(3) The application is accompanied by a firearms requalification fee as prescribed in this chapter.

(4) The applicant has produced evidence to the firearm training facility, either upon receiving his or her original qualification card

or upon filing for renewal of that card, that he or she is a citizen of the United States or has permanent legal alien status in the United States. Evidence of citizenship or permanent legal alien status is that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, Department of Justice, Immigration and Naturalization Service Form I-151 or I-551, Alien Registration Receipt Card, naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(c) An expired firearms qualification card may not be renewed. A person with an expired registration is required to apply for a new firearms qualification in the manner required of persons not previously registered. A person whose card has expired shall not carry a firearm until he or she has been issued a new firearms qualification card by the bureau.

(d) Paragraph (2) of subdivision (b) shall not apply to a duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who is authorized to carry a firearm in the course of his or her duties and who has successfully completed requalification training.

SEC. 2. Section 7583.39 of the Business and Professions Code is repealed.

SEC. 3. Section 7583.39 is added to the Business and Professions Code, to read:

7583.39. (a) The bureau shall require, as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee file or have on file with the bureau, an insurance policy, as defined in Section 7583.40.

(b) If a licensee fails to maintain sufficient insurance, as required by this section, or fails to provide proof of the required insurance policy upon request by the bureau, the license shall be automatically suspended by operation of law until the date that the licensee provides proof to the bureau of compliance with the insurance coverage requirement. Prior to an automatic suspension, the bureau shall notify the licensee, in writing, that it has 30 days to provide proof to the bureau of having the required insurance policy or the license shall be automatically suspended.

(c) (1) A Certificate of Liability Insurance issued by an authorized agent or employee of the insurer shall be submitted to the bureau electronically, or in a manner authorized by the bureau, for an insurance policy secured by a licensee in satisfaction of this section.

(2) An insurer issuing a Certificate of Liability Insurance pursuant to paragraph (1) shall report the following information to the bureau for an insurance policy required by this section:

- (A) The name of the insured.
- (B) The licensee's license number.
- (C) The policy number.
- (D) The dates that coverage is scheduled to commence and end.
- (E) The cancellation date, if applicable.

SEC. 4. Section 7583.40 of the Business and Professions Code is amended to read:

7583.40. "Insurance policy," as used in this article, means a commercial general liability policy of insurance issued by an insurance company authorized to transact business in this state that provides minimum limits of insurance of one million dollars (\$1,000,000) for any one loss or occurrence due to bodily injury, including death, or property damage, or both.

SEC. 5. Section 7587.16 is added to the Business and Professions Code, to read:

7587.16. (a) The director, through his or her designee, may assess an administrative fine pursuant to Section 28022 of the Penal Code.

(b) An assessment imposed pursuant to that section may be appealed pursuant to Section 7581.3.

SEC. 6. Chapter 4.1 (commencing with Section 28010) is added to Division 6 of Title 4 of Part 6 of the Penal Code, to read:

CHAPTER 4.1. REGISTRATION AND ASSIGNMENT OF FIREARMS
BY PRIVATE PATROL OPERATORS

28010. (a) The Legislature finds and declares that current practices and statutes authorize the purchase, registration, and ownership of firearms by an individual, but not by a business entity.

(b) It is the intent of the Legislature in enacting this chapter to allow business ownership and registration of firearms in the case of licensed Private Patrol Operators (PPOs) who are actively

providing armed private contract security services. It is further the intent of the Legislature to establish procedures whereby a PPO may assign firearms it owns to its employees who are licensed to carry firearms and that assignment of a firearm by a PPO to that employee would not constitute a loan, sale, or transfer of a firearm.

(c) It is the intent of the Legislature to require notification of the Bureau of Security and Investigative Services any time a security guard is listed on the Prohibited Armed Persons File so that the bureau may proceed with appropriate action regarding the licensing of the employee.

(d) For purposes of this chapter, the following definitions apply:

(1) “Bureau” means the Bureau of Security and Investigative Services within the Department of Consumer Affairs.

(2) “Department” means the Department of Justice.

(3) “Director” means the Director of the Department of Consumer Affairs.

(4) “Private patrol operator” or “PPO” means a private patrol operator licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code whose license is not suspended, revoked, expired, inactive, delinquent, or canceled.

(5) “Security guard” means a security guard registered pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code whose registration is not suspended, revoked, expired, inactive, delinquent, or canceled.

28012. (a) A PPO may be the registered owner of a firearm if the PPO is registered with the department pursuant to procedures established by the department.

(b) The department shall modify the department’s Dealers’ Record of Sale (DROS) form to allow a PPO to be listed as the purchaser and registered owner of a firearm. The form shall also require the PPO to identify its type of business formation and to include any tax identification number or other identifying number of the PPO that may be required by the department.

(c) (1) The department shall modify the department’s DROS form to require the PPO to designate a “firearms custodian” for the firearm owned by the PPO that is listed in the DROS. A firearms custodian shall possess a valid firearms qualification permit issued by the bureau. A firearms custodian is responsible for the tracking, safekeeping, and inventory of those firearms of

the PPO for which the custodian is designated, and shall serve as a point of contact for the department regarding the firearms for which the custodian is designated.

(2) If a firearms custodian is no longer employed by the PPO in that capacity, or otherwise becomes ineligible to be the firearms custodian, the PPO shall notify the department of that fact within seven days in a manner prescribed by the department, and the PPO shall notify the department of the designated replacement firearms custodian within 20 days of the original notice.

(d) A security guard shall possess a valid firearm qualification permit issued by the bureau prior to receiving a firearm from a PPO pursuant to a Certificate of Assignment (COA). A firearm shall be assigned by a PPO to a security guard who is employed to work for the PPO only when that employment requires the security guard to be armed.

(e) (1) (A) The department shall prescribe a “Certificate of Assignment” or “COA.” The COA may include fields that are in the DROS form, and shall be used to identify the employee of the PPO who has been assigned a PPO-owned firearm by the PPO pursuant to this chapter.

(B) The COA shall also be used to identify an employee of the PPO who will use his or her own firearm in the course of his or her duties as a security guard. The COA shall not require specific information regarding an employee-owned firearm.

(2) A PPO shall register a PPO-owned firearm acquired prior to July 1, 2016, as a PPO-owned firearm in a manner prescribed by the department prior to filing a COA for that firearm.

(3) Upon the PPO assigning a firearm to an employee who is a security guard, the PPO shall complete the COA and file it with the department in a timely manner as prescribed by the department.

(f) The department shall cause the information contained on the COA to be entered into the Automated Firearms System in a timely manner. Upon termination of the employment assignment that requires the security guard to be armed and the transfer of the firearm from the security guard back to the PPO, the PPO shall complete a COA indicating that the firearm is no longer assigned to the employee and that the firearm is in the possession of the PPO and shall file the COA with the department in a timely manner, as prescribed.

(g) If a security guard becomes listed on the Prohibited Armed Persons File, the department shall immediately notify the bureau of the listing by secured electronic delivery. Upon that notification, the bureau shall take appropriate action regarding the security guard. In addition, the department shall notify the PPO, in the manner the department deems appropriate, that the PPO employee is prohibited from being armed. This chapter does not prohibit the department from also notifying the bureau if a security guard has been arrested and charged with an offense that, upon conviction, would constitute a basis for revocation of a firearms qualification permit or security guard registration.

28014. The department shall charge a fee not to exceed the reasonable costs to the department for filing and processing a COA, and for the costs incurred in the implementation and administration of this chapter, including, but not limited to, entering information obtained pursuant to this chapter into the Automated Firearms System and other databases as deemed necessary by the department. The fee shall be deposited in the Dealers' Record of Sale Special Account.

28016. (a) If the PPO ceases to do business, ceases to possess a valid PPO license issued by the bureau that is not suspended, revoked, expired, inactive, delinquent, or canceled, ceases as a business entity, or changes its type of business formation, the PPO shall, within 30 days and unless otherwise prohibited by law, lawfully sell or transfer all PPO-owned firearms.

(b) A PPO shall notify the department of the sale or transfer of a PPO-owned firearm within five business days of the transaction in a manner prescribed by the department. This subdivision shall not apply if the sale or transfer was made to or through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

28018. Notwithstanding any other law, an assignment of a firearm pursuant to this chapter shall not constitute a loan, sale, or transfer of a firearm.

28020. (a) Within 48 hours of the PPO's request, for any reason, or within 48 hours of separation of employment or revocation of the firearm qualification card, the security guard shall return to the PPO the firearm owned by the PPO and listed on a COA.

(b) The failure of a security guard to comply with subdivision (a) is a misdemeanor.

(c) If a security guard employed by a PPO does not comply with subdivision (a), the PPO shall notify the bureau within seven business days from the date that the security guard was required to return the firearm to the PPO.

(d) This chapter does not limit the right of a security guard to use, possess, or otherwise lawfully carry a firearm owned by that security guard.

28022. (a) The director, through his or her designee, may assess an administrative fine of up to one thousand dollars (\$1,000) against a PPO or a security guard for each willful violation of this chapter. All fines collected pursuant to this chapter shall be deposited in the Private Security Services Fund.

(b) An assessment imposed pursuant to this section may be appealed pursuant to Section 7581.3 of the Business and Professions Code.

28024. This chapter shall become operative on July 1, 2016.

SEC. 7. Section 28235 of the Penal Code is amended to read:

28235. All moneys received by the department pursuant to this article shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to any of the following:

- (a) This article.
- (b) Section 18910.
- (c) Section 27555.
- (d) Subdivisions (d) and (e) of Section 27560.
- (e) Chapter 4.1 (commencing with Section 28010).
- (f) Article 6 (commencing with Section 28450).
- (g) Section 31110.
- (h) Section 31115.
- (i) Subdivision (a) of Section 32020.
- (j) Section 32670.
- (k) Section 33320.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2014

Governor